Tax
Indonesia

TaxFlash

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Year-end preparation for a new tax environment

The current tax reform, though not yet completed, has invoked some changes in the tax environment. A different style of approach is now required under the new tax administration law (KUP) in tax audits and disputes resolution. Some other changes are coming up as the new income tax law (Law No. 36/2008) will be effective next year. The implementation of several revised accounting standards this year adds other factors to the creation of a new tax environment.

What follows is a summary of tax-related issues that you need to consider in your year-end set-up.

- *Corporate tax rate reduction*. A lower tax rate of 28% will apply from 2009 and this will be further reduced to 25% in 2010. Ascertaining the correct cut-offs for revenue and expense flows is essential as an incorrect treatment may cost the company extra tax. Calculation of deferred tax assets and liabilities must also take into account the upcoming tax rate reduction.

- *Payroll tax*. A 20% withholding tax surcharge will apply to employees without a tax ID number (NPWP) at 1 January 2009 in respect of their employment income. Employers are held responsible to withhold this surcharge in addition to the normal withholding tax under Article 21. While obtaining an NPWP is an individual's responsibility, one's failure to comply may cost the company as well, especially if employees' income is paid on a net basis. Even if salaries are paid on a gross basis, extra costs may still be unavoidable to deal with employees' complaints about this surcharge, unless this matter has been adequately communicated to them beforehand. It may be worth considering a human resources policy which clearly addresses the issue of individual tax registration.

- *One-month rule in a tax audit*. Any documents requested by tax auditors in a tax audit must be delivered to them within a month of the request date. Documents delivered beyond the deadline will not be taken into account in tax auditors' calculation of the company's tax liabilities. Nor will such documents be considered in the tax objection stage. It is therefore essential to have readily-available tax-related documents in anticipation of a tax audit, the timing of which is sometimes unknown.

- *Fixed assets accounting*. The new Indonesian accounting standards for fixed assets (Revised PSAK 16), which is effective this year, allows an option to account for fixed assets on a valuation basis in addition to the long-standing cost basis. In each case, consistency must be maintained. Hence, if the valuation basis is chosen, the company must undertake a revaluation of the fixed assets concerned regularly. To a certain extent, the revaluation gain/loss must be accounted for as part of the current-year income/loss. For tax purposes, on the other hand, fixed assets must still be accounted for on a cost basis. This means the use of a valuation basis for fixed assets accounting will call for additional fiscal adjustments in respect of a revaluation gain/loss accounted for in the income statement and impact deferred tax calculations.

- *Uncollectible accounts receivable*. Suppose you have charged to accounting profit and loss a certain amount of uncollectible accounts receivable. Now you are wondering how to claim as a deduction for tax. First of all, you must be ready to deliver the list of the uncollectible accounts to the DGT. Then, one of these four conditions must in addition be met: (1) an agreement with the debtor about the write off or forgiveness of the debt; (2) the debtor's acknowledgement about the write off or forgiveness of the debt; (3) publication of the debt write off or forgiveness in a mass media; or (4) bringing legal proceedings for the debt collection to the district court.

- *Domestic withholding tax*. As far as Article 23 withholding tax is concerned, the new income tax law will greatly simplify, and for certain items, trim the withholding tax rates. Only two types of tax rate will apply, all to be imposed on the gross amount of the relevant income and thereby abolishing the so-called estimated net income (ENI) approach. For dividends, interest, royalties, and prizes the tax rate will stay at 15%. For service fees, on the other hand, it will be 2%. You may need to check your contracts to ascertain which withholding tax regime is relevant to each of them.

- *Dividend distribution*. Under the new income tax law, dividend distribution by a limited-liability (PT) company to another PT company is tax exempt subject only to a minimum shareholding of 25%. The active business requirement is abolished. Dividends distributed to resident taxpayers will be subject to final income tax at a maximum of 10%. Tax is due at the time of dividend declaration.

Annual compliance work for 2008

Under the 2007 KUP, there are only two types of annual income tax return: individual income tax return (Form 1770) and corporate income tax return (Form 1771). This implies that the annual employee income tax return (Form 1721) which was required under the 2000 KUP will be gone under the 2007 KUP. Because the 2007 KUP is effective from 2008, it has been generally understood that annual compliance for 2008 should follow the 2007 KUP.

However, the director general of tax (DGT) issued PER-39/PJ/2008 (Reg.39) in early October requiring employers to file Form 1721 for 2008. Reg. 39 also refers to the 2000 KUP and an implementing regulation under this regime in the consideration clauses. This situation has given rise to the question of whether annual compliance work for 2008 should follow the 2000 or 2007 KUP.

We are of the view that, while clarification needs to be awaited from the DGT, particularly regarding Forms 1770 and 1771, for practical reasons Form 1721 for 2008 should still be filed in accordance with Reg. 39.

Your PricewaterhouseCoopers Indonesia contacts

Ali Mardi
ali.mardi@id.pwc.com

Anthony J. Anderson
anthony.j.anderson@id.pwc.com

Anton Manik
anton.manik@id.pwc.com

Engeline Siagian
engeline.siagian@id.pwc.com

Lili Tjitadewi
lili.tjitadewi@id.pwc.com

Margie Margaret
margie.margaret@id.pwc.com

Nuryadi Mulyodiwarno
nuryadi.mulyodiwarno@id.pwc.com

Robertus Winarto
robertus.winarto@id.pwc.com

Tim Watson
tim.watson@id.pwc.com

Ali Widodo
ali.widodo@id.pwc.com

Ay-Tjhing Phan
ay.tjhing.phan@id.pwc.com

Heru Supriyanto
heru.supriyanto@id.pwc.com

Paul Raman
paul.raman@id.pwc.com

Jim McMillan
jim.f.mcmillan@id.pwc.com

Ray Headifen
ray.headifen@id.pwc.com

Hendra Lie
hendra.lie@id.pwc.com

www.pwc.com/id

If you would like to be removed from this mailing list, please reply and write UNSUBSCRIBE in the subject line**,** or send an email to maria.purwaningsih@id.pwc.com.

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